



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2010 REGULAR SESSION

HOUSE BILL NO. 165

WEDNESDAY, JANUARY 27, 2010

The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED
DATE April 12, 2010
4:57 pm

TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. H. Hales

AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 ➔ Section 1. KRS 304.17B-015 is amended to read as follows:

2 (1) Any individual who is an eligible individual **and a resident of Kentucky** is eligible
3 for coverage under Kentucky Access, except as specified in paragraphs (a), (b), (d),
4 and (e) of subsection (4) of this section.

5 (2) Any individual who is not an eligible individual who has been a resident of the
6 Commonwealth for at least twelve (12) months immediately preceding the
7 application for Kentucky Access coverage is eligible for coverage under Kentucky
8 Access if one (1) of the following conditions is met:

9 (a) The individual has been rejected by at least one (1) insurer for coverage of a
10 health benefit plan that is substantially similar to Kentucky Access coverage;

11 (b) The individual has been offered coverage substantially similar to Kentucky
12 Access coverage at a premium rate greater than the Kentucky Access premium
13 rate at the time of enrollment or upon renewal; or

14 (c) The individual has a high-cost condition listed in KRS 304.17B-001.

15 (3) A Kentucky Access enrollee whose premium rates exceed claims for a three (3) year
16 period shall be issued a notice of insurability. The notice shall indicate that the
17 Kentucky Access enrollee has not had claims exceed premium rates for a three (3)
18 year period and may be used by the enrollee to obtain insurance in the regular
19 individual market.

20 (4) An individual shall not be eligible for coverage under Kentucky Access if:

21 (a) 1. The individual has, or is eligible for, on the effective date of coverage
22 under Kentucky Access, substantially similar coverage under another
23 contract or policy, unless the individual was issued coverage from a
24 GAP participating insurer as a GAP qualified individual prior to January
25 1, 2001. A GAP qualified individual shall be automatically eligible for

1 coverage under Kentucky Access without regard to the requirements of
 2 subsection (2) of this section; or

3 2. For individuals meeting the requirements of KRS 304.17A-005(11),
 4 the individual has, or is eligible for, on the effective date of coverage
 5 under Kentucky Access, coverage under a group health plan.

6 An individual who is ineligible for coverage pursuant to this paragraph shall
 7 not preclude the individual's spouse or dependents from being eligible for
 8 Kentucky Access coverage. As used in this paragraph, "eligible for" includes
 9 any individual and an individual's spouse or dependent who was eligible for
 10 coverage but waived that coverage. That individual and the individual's
 11 spouse or dependent shall be ineligible for Kentucky Access coverage
 12 through the period of waived coverage;

- 13 (b) The individual is eligible for coverage under Medicaid or Medicare;
- 14 (c) The individual previously terminated Kentucky Access coverage and twelve
 15 (12) months have not elapsed since the coverage was terminated, unless the
 16 individual demonstrates a good faith reason for the termination;
- 17 (d) Except for covered benefits paid under the standard health benefit plan as
 18 specified in KRS 304.17B-019, Kentucky Access has paid two million dollars
 19 (\$2,000,000) in covered benefits per individual. The maximum limit under
 20 this paragraph may be increased by the office; ~~{or}~~
- 21 (e) The individual is confined to a public institution or incarcerated in a federal,
 22 state, or local penal institution or in the custody of federal, state, or local law
 23 enforcement authorities, including work release programs; or
- 24 (f) The individual's premium, deductible, coinsurance, or copayment is
 25 partially or entirely paid or reimbursed by an individual or entity other than
 26 the individual or the individual's parent, grandparent, spouse, child,
 27 stepchild, father-in-law, mother-in-law, son-in-law, daughter-in-law,

sibling, brother-in-law, sister-in-law, grandchild, guardian, or court-
appointed payor.

- (5) The coverage of any person who ceases to meet the requirements of this section or the requirements of any administrative regulation promulgated under this subtitle may be terminated.

➔Section 2. KRS 304.17B-019 is amended to read as follows:

- (1) Kentucky Access shall offer at least three (3) health benefit plans to enrollees, which shall be similar to the health benefit plans currently being marketed to individuals in the individual market.~~One (1) plan shall be the standard health benefit plan set forth in KRS 304.17A-250.~~

- (2) At least one (1) plan shall be offered in a traditional fee-for-service form. At least one (1) plan may be offered in a managed-care form at such time as the office can establish an appropriate provider network in available service areas.

- (3) The office shall provide for utilization review and case management for all health benefit plans issued under Kentucky Access.

- (4) The office shall review and compare health benefit plans provided under Kentucky Access to health benefit plans provided in the individual market. Based on the review, the office may amend or replace the health benefit plans issued under Kentucky Access~~, except for the standard health benefit plan as specified in subsection (1) of this section.~~

- (5) Individuals who apply and are determined eligible for health benefit plans issued under Kentucky Access shall have coverage effective the first day of the month after the application month.

- (6) For eligible individuals, health benefit plans issued under Kentucky Access shall not impose any pre-existing condition exclusions. In all other cases, a pre-existing condition exclusion may be imposed in accordance with KRS 304.17A-230.

- (7) Health benefit plans issued under Kentucky Access shall be guaranteed renewable

1 except as otherwise specified in KRS 304.17B-015 and KRS 304.17A-240.

2 (8) All health benefit plans issued under Kentucky Access shall provide that, upon the
3 death or divorce of the individual in whose name the contract was issued, every
4 other person covered in the contract may elect within sixty-three (63) days to
5 continue under the same or a different contract.

6 (9) Health benefit plans issued under Kentucky Access shall coordinate benefits with
7 other health benefit plans and be the payor of last resort.

8 (10) ~~[Except for the standard health benefit plan specified in subsection (1) of this~~
9 ~~section,]~~Health benefit plans issued under Kentucky Access shall pay covered
10 benefits up to a lifetime limit of two million dollars (\$2,000,000) per covered
11 individual. The maximum limit under this subsection may be increased by the
12 office.

13 ➔Section 3. KRS 344.040 is amended to read as follows:

14 (1) It is an unlawful practice for an employer:

15 (a)~~[(1)]~~ To fail or refuse to hire, or to discharge any individual, or otherwise to
16 discriminate against an individual with respect to compensation, terms,
17 conditions, or privileges of employment, because of the individual's race,
18 color, religion, national origin, sex, age forty (40) and over, because the
19 person is a qualified individual with a disability, or because the individual is a
20 smoker or nonsmoker, as long as the person complies with any workplace
21 policy concerning smoking;

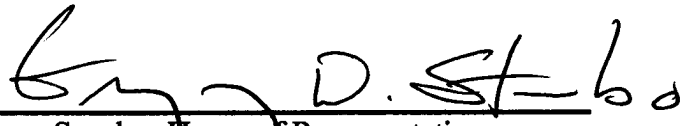
22 (b)~~[(2)]~~ To limit, segregate, or classify employees in any way which would
23 deprive or tend to deprive an individual of employment opportunities or
24 otherwise adversely affect status as an employee, because of the individual's
25 race, color, religion, national origin, sex, or age forty (40) and over, because
26 the person is a qualified individual with a disability, or because the individual
27 is a smoker or nonsmoker, as long as the person complies with any workplace

1 policy concerning smoking; or

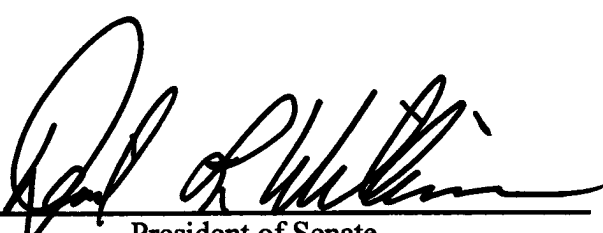
2 ~~(c)(3)}~~ To require as a condition of employment that any employee or applicant
3 for employment abstain from smoking or using tobacco products outside the
4 course of employment, as long as the person complies with any workplace
5 policy concerning smoking.

6 **(2) (a) A difference in employee contribution rates for smokers and nonsmokers in**
7 **relation to an employer-sponsored health plan shall not be deemed to be an**
8 **unlawful practice in violation of this section.**

9 **(b) The offering of incentives or benefits offered by an employer to employees**
10 **who participate in a smoking cessation program shall not be deemed to be**
11 **an unlawful practice in violation of this section.**



Speaker-House of Representatives



President of Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date April 12, 2010